

ORAL DEPOSITION OF ARTHUR MCKENZIE, JR.

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1 A. No, I do not.
 2 Q. Did Roman -- was there a supervisor over
 3 Chocolate Bayou?
 4 A. I'm not sure. I don't think there is a
 5 particular supervisor over Chocolate Bayou. I believe 11:43
 6 there is a supervisor over a certain group. If a
 7 Chocolate Bayou job happens to become available, then
 8 I don't know how that part works, who is assigned to
 9 what. But I believe when Mike Monroe was requesting
 10 to do that, he was requesting that through his 11:43
 11 immediate supervisor.
 12 Q. You don't remember if that was Roman or the
 13 third one that you can't remember?
 14 A. I don't. I'm not sure.
 15 Q. Was Robert the third supervisor? 11:43
 16 A. Robert. Yes, Robert Neuman, I believe is his
 17 last name.
 18 Q. And Roman is Roman Firmin?
 19 A. Yes.
 20 Q. What is your understanding of what it takes 11:44
 21 to get the LG endorsement?
 22 Let me back up for a minute. You do
 23 understand all these endorsements are issued by the
 24 Coast Guard. Correct?
 25 A. Yes. 11:44

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1 Q. It's not something Petroleum Service
 2 Corporation can do. It has to be the Coast Guard that
 3 issues these. You understand that. Correct?
 4 A. I understand the Coast Guard issues the
 5 endorsements. 11:44
 6 Q. What is your understanding of the Coast Guard
 7 requirements for getting an LG endorsement?
 8 A. That you have five loads and five discharges
 9 in liquefied gas, in addition to some type of
 10 classroom setting. 11:44
 11 Q. Are those the same requirements for the DL
 12 endorsement?
 13 A. I believe so.
 14 Q. As far as number of discharges?
 15 A. Yes, I believe so. 11:45
 16 Q. For both endorsements there has got to be
 17 classroom training?
 18 A. I believe.
 19 Q. Do you know whether or not during the
 20 Tankerman Career Academy that you attended through 11:45
 21 Petroleum Service Corporation, whether you got all the
 22 classroom training for getting an LG endorsement?
 23 A. I did receive all the classroom training.
 24 Q. So the only thing you're lacking is some
 25 transfers? 11:45

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1 A. Well, actually, I don't have the exact number
 2 right off the top. But I do believe that I had the
 3 transfers because I did do liquefied transfers during
 4 training with my trainer. And I believe we did have
 5 enough of the loads and discharges for me to get my LG 11:45
 6 endorsement, according to my trainer at graduation.
 7 Q. And who was that?
 8 A. His last name was Fox. Paul Fox was my
 9 trainer.
 10 Q. Is he white or black? 11:46
 11 A. He's white.
 12 Q. He ensured that you got enough transfers to
 13 get the LG endorsement?
 14 A. He's LG-qualified. So with him during
 15 training, we did do some liquefied gas transfers. And 11:46
 16 upon graduation, he looked at my MMD and he turned it
 17 over. And his statement was, "They didn't give you
 18 your LG." I didn't even know until he brought it to
 19 my attention. This was when we were issued our MMDs
 20 at graduation. 11:46
 21 Q. Merchant Mariner's Document?
 22 A. Merchant Mariner's Document.
 23 Q. But you thought you had fulfilled all of the
 24 qualifications for getting the LG endorsement?
 25 A. Yes, I did. 11:47

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1 Q. Mr. Fox told you in March of 2005 it's not on
 2 your card?
 3 A. He indicated to me that it was not on my
 4 card.
 5 Q. Is there any reason you didn't follow up with 11:47
 6 the Coast Guard, like you did recently, to get it
 7 renewed?
 8 A. I understood at that point that it wasn't my
 9 responsibility. PSC was to ensure -- they took care
 10 of all the paperwork. I didn't do this independently 11:47
 11 on my own from PSC. Part of the curriculum was that
 12 PSC would ensure that I get the loads and the
 13 transfers necessary to get my LG and my DL. So as you
 14 do the DL, they were to issue your paperwork to the
 15 Coast Guard. 11:47
 16 Q. What I understand is that PSC actually gave
 17 you enough transfers and all the classroom work to get
 18 it. It's just in the paperwork you didn't get it?
 19 A. Yes, I believe that, but I am not positive
 20 that I got all of the loads and the discharges. 11:47
 21 Q. My question is: I understand it's your
 22 contention that PSC was supposed to do all the
 23 paperwork. Is there any reason that you didn't follow
 24 up with the Coast Guard and say, "I have enough
 25 transfers. I want to get my DL endorsement"? 11:48

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1 A. No. Actually, I was not sure of what the
2 process actually was, meaning they handled all of our
3 paperwork. If I was short any transfers -- because I
4 don't know the exact number. I know we did enough
5 transfers. My trainer indicated that I should have 11:48
6 gotten my LG.
7 After the fact, I was not -- I was not sure
8 that I was supposed to go to the Coast Guard office
9 myself to push the issue about LG. I took all of my
10 questions to my immediate supervisor, who at that 11:48
11 point I felt was supposed to assist me to either
12 ensure that I get my LG or direct me to what I needed
13 to do to get my LG.
14 Q. You took that to Mason Dela Cruz?
15 A. Yes, I did. 11:49
16 Q. What did you tell him?
17 A. I told him that at graduation -- I asked him
18 about me not having my LG and he told me -- he
19 indicated to me that they would take care of it.
20 After I was turned loose from graduation -- 11:49
21 Q. Which would have been March of 2005?
22 A. Yes. When I was able to go out on my own, I
23 would ask periodically about getting my LG.
24 Q. Not about getting more transfers, just
25 getting the endorsement? 11:49

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1 A. Well, I guess to me that was the same thing.
2 I'm sure he knew what I was speaking in reference to.
3 Q. Sitting here today, you know you can go to
4 the Coast Guard yourself and get whatever endorsements
5 you qualify for. Correct? 11:50
6 A. Actually, I would have to get information
7 from PSC indicating that I had the loads and the
8 discharges.
9 Q. And do you remember how many you got -- how
10 many loads and discharges of liquefied gases you got 11:50
11 with your employment with PSC?
12 A. No, I'm not sure exactly.
13 Q. How long are the loads and discharges valid?
14 Do you know? Let me ask you a different question.
15 A. Okay. 11:50
16 Q. If you got five loads and five discharges
17 while you were at Tankerman Career Academy, which I
18 understand was back in late 2004 and early 2005, would
19 those still be valid today? Do you know?
20 A. I'm not sure. I'm not sure if they would 11:50
21 still be valid.
22 Q. Besides going to Mr. Dela Cruz in March of
23 2005, what other times did you talk to him about
24 getting the LG endorsement?
25 A. I don't have any exact dates, but I do know I 11:51

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1 have spoken with him on a couple of occasions to
2 indicate that I was interested in doing what it was
3 going to take for me to get my LG and asking like
4 what's going on with the LG, that type of, just
5 inquiring about it. The answer was always pretty much 11:51
6 like when we get some -- that he would take care of
7 it, or as soon as we get some LG barges in, I'll let
8 you know, that type of thing.
9 Q. Did you -- who ran the Tankerman Career
10 Academy? 11:51
11 A. Jimmy Horn started it. I want to say he was
12 the one who initially started the PSC Tankerman.
13 Q. Do you know Christina Maldonado?
14 A. Yes, I do know Christina.
15 Q. How do you know her? 11:52
16 A. She was the person who processed a lot of our
17 paperwork as soon as -- with the academy and coaching
18 us through the process. We went over certain issues
19 with her during the process also in training.
20 Q. Is there any reason you didn't go talk to 11:52
21 Mr. Horn or Ms. Maldonado about the LG endorsement?
22 A. No, I never thought to speak to Jimmy Horn.
23 At that point I was directly reporting to Mason. So
24 any questions or any support that I needed as a
25 tankerman, I directed all my questions to him. 11:52

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1 Q. So Mr. Mason Dela Cruz was the only person at
2 PSC that you asked about getting the LG endorsement?
3 A. Yes.
4 Q. Do you remember how many times you asked him
5 about that after you graduated from the -- 11:53
6 A. I want to stick with two. I recall
7 specifically asking him at least twice.
8 Q. Do you have any -- can you give us any idea
9 of when those were?
10 A. No, I cannot. 11:53
11 Q. The number two that you're giving us, you
12 think it was twice, does one of those include when you
13 asked him that right after you got -- after you had
14 your graduation in March of 2005?
15 A. No. This was after I was turned loose from 11:53
16 graduation. I asked him at graduation so there was
17 two times in addition to that.
18 Q. So three times?
19 A. I would say three. I mean, there was a
20 question about the LG at graduation, which is kind of 11:53
21 like the same thing. But I want to say definitely
22 after graduation there was two times when I was
23 wanting to get my LG.
24 Q. Every time he would say, "Well, we'll look at
25 it. If we get more LG work, then we'll follow up on 11:54

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1 that"?
2 A. Pretty much.
3 Q. Do you know of any particular tankerman for
4 Petroleum Service Corporation that was getting a lot
5 of LG work between March of 2005 and February of 2007? 11:54
6 A. Yes, I do. I'm trying to think. He's a
7 supervisor now. He graduated in my group. We
8 referred to him as Coastie because he used to work for
9 the Coast Guard. I can't think of his name. If I saw
10 his name -- I want to say -- 11:54
11 Q. Was he white or black?
12 A. He was white. He got most of his transfers
13 in liquefied gas in Corpus Christi.
14 Q. Did you ever work in Corpus Christi?
15 A. Yes, I did. 11:55
16 Q. For how long?
17 A. I was sent to Corpus twice for maybe a period
18 of a week or two each time to pump off dangerous
19 liquid cargo.
20 Q. That would be the DL work? 11:55
21 A. Yes. Let me get some water.
22 Q. Let's take a quick break. Before we take a
23 break, let me say, Mr. McKenzie, any time you need to
24 take a break, just let us know.
25 MR. KIGGANS: Let's go ahead and take a 11:55

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1 break.
2 (Break from 11:55 a.m. to 12:07 p.m.)
3 Q. Mr. McKenzie, I have what I think is a list
4 of the people that were in your TCA class. When I say
5 TCA, you know I mean Tanker Career Academy class. 12:07
6 A. Yes.
7 Q. I want to go down the list and please confirm
8 whether these people were in your class. And if we
9 get to the one that you called Coastie, tell me who
10 that was. Ronald Hilliard. 12:08
11 A. No. He was in my class.
12 Q. Let me go down the list. You tell me, "Yes,
13 he was in my class." If we hit Coastie, you say,
14 "That's him."
15 A. Okay. 12:08
16 Q. Ronald Hilliard was in your class.
17 A. Yes.
18 Q. Bruce Crockett?
19 A. Yes.
20 Q. Dwayne Batchelor? 12:08
21 A. Yes.
22 Q. Archie Knighton?
23 A. Yes.
24 Q. Albert Gutierrez?
25 A. Yes. 12:08

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1 Q. Or was it Alberto?
2 A. Alberto.
3 Q. Robert Dembo?
4 A. That's him.
5 Q. That's Coastie? 12:08
6 A. That's Coastie.
7 Q. When did he become a supervisor?
8 A. I believe he became a supervisor shortly -- I
9 mean right before I left.
10 Q. Let me go to the next one. 12:09
11 A. He was a tankerman and got promoted into
12 supervision, I believe.
13 Q. There is another Robert, Robert Franks. Do
14 you remember if Coastie might have been Robert Franks?
15 The reason I say that is according to my notes -- 12:09
16 A. Robert.
17 Q. -- Robert Dembo is black.
18 A. Okay. It's Franks then. I knew it was
19 Robert something.
20 Q. Do you remember Robert Dembo at all? 12:09
21 A. I think so, vaguely.
22 Q. Does that sound like the right list?
23 A. Yeah. The Robert that I'm talking about who
24 did the LG's in Corpus, I know he became a supervisor
25 right before I left. This is a white gentleman. 12:09

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1 Q. I think you're right, Robert Franks is the
2 supervisor.
3 A. That's who I'm speaking in reference.
4 Q. He is white. Okay. Do you remember having
5 about eight people in your class? 12:10
6 A. That sounds about right.
7 Q. Ronald Hilliard, what was his race?
8 A. He was black.
9 Q. Did he get an LG endorsement? Do you know?
10 A. I don't believe he did, no. 12:10
11 Q. What about Bruce Crockett?
12 A. Bruce Crockett, I believe, got his LG.
13 Q. He's white?
14 A. Yes.
15 Q. Dwayne Batchelor? 12:10
16 A. No.
17 Q. And he is black?
18 A. Yes.
19 Q. Archie Knighton?
20 A. Archie Knighton got his LG and he's black. 12:10
21 Q. Alberto Gutierrez is Hispanic?
22 A. He's Hispanic. I'm not sure if he had his LG
23 or not.
24 Q. Robert Dembo, you don't remember him, or do
25 you remember him? 12:10

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1 A. I don't really remember him, really. I can't
2 picture him right now for some reason.
3 Q. Robert Franks was, we think, the white guy
4 that got his LG endorsement?
5 A. Yes, at some point. 12:10
6 Q. Do you know, who was Mr. Knighton's
7 supervisor?
8 A. I want to say he reported to Roman.
9 Q. You think he got his LG endorsement at
10 graduation? 12:11
11 A. I heard that not too long ago, that he had
12 his LG.
13 Q. Who did you hear that from?
14 A. I believe Dwayne Batchelor mentioned that to
15 me. 12:11
16 Q. When was the last time you spoke with
17 Mr. Batchelor?
18 A. It's been maybe a month ago, maybe.
19 Q. Have you talked to him about testifying on
20 your behalf in this case? 12:11
21 A. We don't talk about the case too much. But
22 no, I haven't spoken with him, whether there's a
23 confirmation of that.
24 Q. Now, you agree that there were some whites
25 and at least one black in your class that got the LG 12:11

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1 endorsement?
2 A. I was not aware of that until recently.
3 Q. Why do you think -- do you think that not
4 getting the LG endorsement had anything to do with
5 your race? 12:12
6 A. I believe it did for me.
7 Q. Why?
8 A. I believe my relationship with Dela Cruz
9 coming straight out of -- straight out of the academy
10 upon graduation was strange. I always felt that he 12:12
11 had me singled out in the sense that some of the
12 statements that he made and how he treated me I felt
13 were discriminatory.
14 One statement that he made upon graduation is
15 that he wanted -- as they were assigning tankermen to 12:12
16 different supervisors, Cruz had requested me and
17 Dwayne Batchelor to come to his group. Now, me and
18 Dwayne were referred to by Stanley Duncan, who was a
19 tankerman.
20 Q. What do you mean "referred to"? 12:13
21 A. We was referred to PSC.
22 Q. Stanley --
23 A. Dwayne Batchelor and myself, Dela Cruz wanted
24 us in his group because he said he wanted Dwayne
25 Batchelor and myself and Stanley Duncan. He said he 12:13

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1 wanted us in his group so he can fire us all at the
2 same time.
3 Q. When did he say that?
4 A. He said that at the PSC office. I believe it
5 was as soon as we came back from graduation. When we 12:13
6 came back to the office to find out who we were going
7 to be assigned to as far as which supervisor we were
8 going to work for coming out of graduation.
9 Q. You actually heard Mr. Dela Cruz make that
10 statement? 12:14
11 A. Yes.
12 Q. Who was he talking to?
13 A. I believe he was talking to just like another
14 supervisor. It was a conversation. Everybody was
15 kind of speaking. But as we were going through the 12:14
16 process of being determined who was going to work with
17 who, I can't say who he spoke to per se. But that was
18 the comment that he had made.
19 Q. And he knew you were present?
20 A. Yes. I was standing right there. It was a 12:14
21 statement made loud enough. To whether it was a joke
22 or not, it was definitely clear enough to be heard to
23 whoever he was talking to as well.
24 Q. But Mr. Duncan never got terminated, did he?
25 A. No. I believe Duncan resigned. 12:14

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1 Q. Mr. Batchelor never got terminated, did he?
2 A. No. He resigned.
3 Q. When did Mr. Duncan resign?
4 A. I'm not sure exactly when. It was after --
5 it was after Dwayne Batchelor had resigned. 12:15
6 Q. Did Mr. Batchelor resign before or after you
7 were terminated?
8 A. He resigned after I was terminated.
9 Q. So Batchelor and Duncan were still employed
10 when your employment ended? 12:15
11 A. Yes.
12 Q. Who else was on Mr. Dela Cruz's crew?
13 A. Alberto.
14 Q. Gutierrez?
15 A. Gutierrez. Some of the names escape me. 12:15
16 There was about -- I would say Joe Jackson, Alex. I
17 can't even think of his last name. A gentleman named
18 Alex. There were some older tankermen there as well.
19 I can't think of their names either. That's all I can
20 think of for right now. 12:16
21 Q. Mr. Duncan was already a tankerman when you
22 were going to through the TCA, wasn't he?
23 A. Yes. I'm sorry.
24 Q. He was already on Mr. Dela Cruz's crew?
25 A. Yes, he was already assigned to Dela Cruz. 12:16

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1 Q. So upon graduation, the ones that were the
2 new tankermen who were assigned to Mr. Dela Cruz's
3 crew were you, Mr. Batchelor, and Mr. Gutierrez?
4 A. Yes. They came out of the TCA program.
5 Q. And everyone else was already part of the 12:16
6 crew?
7 A. Yes, I want to say so.
8 Q. What is Mr. Jackson's race?
9 A. He's black.
10 Q. I may have asked you this. Mr. Duncan is 12:16
11 black?
12 A. Yes, he is.
13 Q. What about the guy named Alex?
14 A. Alex is black.
15 Q. And what about the older tankermen that you 12:17
16 referred to earlier?
17 A. I want to say there was two older white
18 gentlemen.
19 Q. And those are the ones you remember being in
20 Mr. Dela Cruz's crew during your employment? 12:17
21 A. Yes.
22 Q. Did that stay the same the entire time you
23 were working for Petroleum Service Corporation?
24 A. Yes, I believe that stayed the same. There
25 was -- I'm trying to think of the time frame. There 12:17

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1 was another graduation class. And I believe there was
2 two or three more tankermen assigned to Dela Cruz.
3 One is black. I'm not sure of the race of the other
4 two. But I want to say Mason had most of the black
5 tankermen at PSC. Most of them were in Dela Cruz's 12:18
6 group as a population.
7 Q. Did you -- did you stay in touch with
8 Mr. Duncan and Mr. Batchelor after your employment
9 ended?
10 A. Yes, I have. 12:18
11 Q. Did they ever tell you who replaced you?
12 A. No, they never told me who replaced me.
13 Q. You don't know who replaced you?
14 A. I have no idea.
15 Q. Do you know if Mr. Duncan was ever subject to 12:18
16 any disciplinary action by Mr. Dela Cruz?
17 A. That I'm not sure of. I can't say that I
18 recall right off.
19 Q. Do you know why he quit?
20 A. Well, one of the reasons I believe he quit 12:18
21 was he wasn't happy with how PSC was treating him. I
22 believe he had another opportunity.
23 Q. Did he tell you why -- what it was that he
24 wasn't happy about?
25 A. Well, he just felt that it was -- that they 12:19

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1 ran like a racist-type scenario where there was no
2 equal opportunity as far as advancement or anything
3 like that.
4 Q. Did Mr. Duncan have his LG endorsement?
5 A. No, did he not. I take that back. I think 12:19
6 he did. I think he may have had it.
7 Q. What did he tell you he thought was racist
8 about what PSC was doing?
9 A. He just felt like he was being held back as
10 far as being considered into management, that he felt 12:19
11 that he wasn't being worked enough and that there were
12 other non-blacks getting hours for overtime. There
13 was special treatment as far as who could work and who
14 couldn't work.
15 Q. Do you know who he's referring to when he 12:20
16 said that whites were getting more hours?
17 A. I can't think of his first name, but his last
18 name is Horn. He's another tankerman out of Robert
19 Newman's group, who appeared to be making --
20 constantly working a lot of overtime, including 12:20
21 working on his off days.
22 Q. Is he related to Jimmy Horn?
23 A. That I'm not sure. There was rumors that he
24 was.
25 Q. Would Mr. Dela Cruz have anything to do with 12:20

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1 assigning tankermen from other crews to work?
2 A. I would think he would do that in the absence
3 of maybe a supervisor not being available. I believe
4 they helped each other at times manage both groups.
5 Q. Just for clarification, as I understand these 12:21
6 tankerman crews, it's not like what we might typically
7 think of a crew that works together. They are not
8 working together all the time, are they?
9 A. No. Actually, the job of a tankerman is very
10 independent. You work in a group, but as independent. 12:21
11 Q. How are you scheduled to work?
12 A. I believe it was -- what was the schedule
13 there? Was it six -- what was the schedule there?
14 The schedule was four and three or five and two.
15 Q. Four days on and three days off? 12:22
16 A. Yes, I believe so.
17 Q. When you're on, you're really on call?
18 A. You're on call, exactly.
19 Q. Do you get the same amount of money if you
20 don't get called out to a job? 12:22
21 A. Well, they have what they call a guarantee --
22 a 40-hour guarantee.
23 Q. How does that work?
24 A. That means if they don't use you during your
25 scheduled work and it's under 40 hours, then they give 12:22

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1 you 40 hours. So they guarantee you 40 hours, whether
2 they use you or not.
3 Q. And do you know of anyone that got scheduled
4 more hours than you?
5 A. I know that Horn individual did work a lot. 12:22
6 I just can't think of his first name. He worked a
7 lot. It would be times where if you're sitting at
8 home, you would find out that there's other tankermen,
9 like, working overtime, which bumps you out of being
10 called to do certain jobs. That happens very 12:23
11 frequently.
12 Q. Let me ask you a question. I think I
13 understand. But you don't have any reason to believe
14 that -- all the tankermen were scheduled the same
15 number of days, weren't they? You were on a rotating 12:23
16 schedule?
17 A. You're on a rotating schedule. So I would
18 imagine that the answer to that would be no, they are
19 not all used with the same amount of time.
20 Q. Well, I understood what you were talking 12:23
21 about with Mr. Horn is when he would get called out on
22 his off days. Is that not what you're talking about?
23 Are you saying he got actually scheduled more than
24 other people?
25 A. Yes, I would say scheduled, yeah. 12:23

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1 Q. Would you all see the schedule of all the
2 tankermen or just your schedule?
3 A. I wouldn't even see my schedule. How you
4 would know that is through working out in the field.
5 Everybody knows everybody's schedule. So if you're 12:24
6 working at a refinery and you see somebody who you
7 know works for another supervisor, you know who is off
8 and who is not on. So everybody pretty much
9 communicates.
10 Q. That's my question. You just said you know 12:24
11 who is off and who is on. You know that because
12 everyone is scheduled to work four days on and then
13 three days off. Correct?
14 A. Yes, this is true.
15 Q. During the time that you were working for 12:24
16 PSC, I know there was a time period -- actually two
17 time periods that you were unavailable to work because
18 of car accidents. Right?
19 A. Yes.
20 Q. But other than those times, you were always 12:24
21 scheduled to work four days on and then three days off
22 and then four days on and then three days off.
23 Correct?
24 A. Yes.
25 Q. Were there times -- which was true with all 12:24

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1 the tankermen, wasn't it?
2 A. Yes. That was true with all the tankerman.
3 That was the schedule, exactly.
4 Q. So the extra days would be if you are on your
5 three days off and a supervisor needs someone, they 12:25
6 will call someone up.
7 A. They would either -- I believe to work on
8 your off days, you had to get approval through a
9 supervisor. So to answer your question, yes,
10 everybody had the same schedule, but not everybody was 12:25
11 able to work their off days.
12 Q. Did you ever get called on your off days to
13 come in?
14 A. No. I asked and volunteered to work on my
15 off days, but was never allowed to. 12:25
16 Q. Who would call, a supervisor? Or a
17 dispatcher?
18 A. You let the supervisor know that. And the
19 supervisor approves whether he's going to let dispatch
20 use you or not. 12:25
21 Q. Do you know whether Mr. Dela Cruz ever said
22 you can't work on your off days?
23 A. Well, I never did. So --
24 Q. Right. I understand that.
25 A. So what's your question? 12:25

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1 Q. But my question was: Did Mr. Dela Cruz ever
2 say, "No, I'm not going to let you work on your off
3 days"?
4 A. No. He would just take my information and
5 say okay, but I would never get a call. 12:26
6 Q. Okay. Do you know of any instances where
7 there were jobs available on your off days and the
8 dispatchers just wouldn't call you?
9 A. Yes, because you hear about it. Like I said,
10 if I'm sitting at home and we all get together or we 12:26
11 call each other. All tankermen pretty much talk. And
12 you find out that while you're sitting at home, there
13 is somebody who is off but they heard was working.
14 That happened pretty frequently.
15 Q. Who would you hear that from? 12:26
16 A. You would hear that from other tankermen. I
17 would hear that from Dwayne. You would hear from --
18 Q. Dwayne Batchelor?
19 A. Dwayne Batchelor. Like I said, we all
20 communicated. Especially if you're sitting at home 12:27
21 and you're not being called out. And once you do get
22 out, you find out who has been doing what. That is
23 just tankermen communicating in the industry.
24 Q. Besides Mr. Horn, is there any other
25 tankermen that you thought got more than their fair 12:27

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1 share of hours? I don't mean to put words in your
2 mouth. Is that what you were saying, you felt that
3 Mr. Horn got more than his fair share of the extra
4 hours?
5 A. I would definitely say that with Mr. Horn for 12:27
6 sure. Some of the other tankermen -- one that I can
7 only think of. His name was -- he was referred to as
8 Big John. I'm not sure what his real name was. But
9 he worked a lot.
10 Q. What crew was he on? 12:27
11 A. I want to say he was with Roman's group.
12 Robert/Coastie, he worked a lot.
13 Q. Was Big John white or black?
14 A. Big John was white. Dave Crockett would get
15 a lot of hours. He's white. 12:28
16 Q. Dave or Bruce?
17 A. Crockett. Bruce Crockett from Palestine.
18 Q. I'm just having fun with you. Dave Crockett.
19 A. I'm going to be honest, I'm not good with
20 names. 12:28
21 Q. I'm kidding. I don't mean -- okay.
22 A. Not David Crockett. Bruce.
23 Q. Do you have any -- other than hearing things
24 from other people, do you have any personal knowledge
25 of how many extra shifts Mr. Horn got? 12:28

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1 A. Well, it's not so much shifts, because we all
2 worked the same shift. It's working his off days.
3 Q. Right. Right.
4 A. So do I have any -- what is your question
5 again? 12:29
6 Q. Do you have any personal knowledge of how
7 many extra days or how many days Mr. Horn would work
8 that were not his regularly-scheduled days?
9 A. No, I do not. I do remember having a
10 conversation with Mr. Horn at a refinery. And he was 12:29
11 expressing to me how he had worked like three barges
12 like back-to-back. And that's just -- all that is is
13 overtime. Really, we can only work like 16 hours a
14 day, I believe, you know, depending on the situations.
15 Some guys kind of go over that. But there is no 12:29
16 reason why anybody should be doing back-to-back barges
17 and pretty much putting in like 36 hours because you
18 can't even physically do that.
19 But he would -- the one time I did speak with
20 him, not so much bragging, but he would indicate how 12:29
21 he's working a lot. Like I said, I spoke with
22 Mr. Horn on one occasion. And he was expressing how
23 he had been working a lot. And I just listened to him
24 say what he needed to say, but as we communicated.
25 Q. You sensed he was bragging about that? 12:30

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1 A. No, no. He was pretty much telling me how he
2 was tired, this and that. And all that did was
3 validate what you hear anyway. And that's certain
4 people get to work a lot of overtime.
5 Q. When was that? 12:30
6 A. I couldn't tell you exactly when the date
7 was. I can tell you I was at -- the location was at
8 Hot Foot.
9 Q. Do you have any personal knowledge about how
10 many extra shifts Big John got to work? 12:30
11 A. No. Big John was just working a lot of
12 overtime all the time. That's from just
13 conversations, because I worked side-by-side with him
14 before.
15 Q. Is it fair to say that all of these people 12:31
16 that you think got extra shifts, it all came through
17 people telling you that, whether it's them or someone
18 else?
19 A. No. It's them hearing it straight from the
20 tankermen. Ron Hilliard used to work a lot. He 12:31
21 worked a lot of overtime.
22 Q. He's black?
23 A. Yes, he is.
24 Q. Do you have any reason to -- well, that, I
25 guess, was my next point. The only way to really tell 12:31

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1 how much overtime people got would be by looking at
2 their pay. Correct?
3 A. That would be definitely a way to validate
4 what I'm saying.
5 Q. Do you have any reason to dispute that in the 12:31
6 year 2006 Ron Hilliard made more money than anyone in
7 your graduating class?
8 A. I can accept that as a possibility. The
9 problem with that, which is not a problem. That's
10 good for him. But that wouldn't happen under Mason 12:32
11 Dela Cruz's group.
12 Q. Whose crew was Mr. Hilliard in?
13 A. I want to say he was in Roman's group. But
14 nobody as far as I know of who were black worked any
15 hours similar to any of those men that we're talking 12:32
16 about under Mason Dela Cruz's group.
17 Q. But the majority of tankermen in his crew
18 were black. Correct?
19 A. Yes.
20 Q. He specifically requested at least you, 12:32
21 Mr. Batchelor, and who was the other one? Mr. Duncan.
22 Now, Mr. Duncan was already in Mr. Dela Cruz's crew
23 when he referred you and Mr. Batchelor to employment
24 with PSC?
25 A. Yes. 12:32

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1 Q. So he already knew Mr. Dela Cruz?
2 A. He already knew Mr. Dela Cruz.
3 Q. How long did he work for PSC? How long had
4 he been working for PSC at the time he suggested to
5 you and Mr. Bachelor that you go to work there? 12:33
6 A. I think he had already been there about a
7 year -- a year, year and a half, maybe.
8 Q. Was he a friend of yours?
9 A. He was a ex-coworker of mine. We used to
10 work with the telephone company. 12:33
11 Q. Which telephone company?
12 A. Lucent Technologies. We were both in
13 management.
14 Q. How did you know Mr. Batchelor?
15 A. I met Batchelor through Mr. Duncan, because 12:33
16 they served in the military together. They were both
17 marines, served as marines.
18 Q. What were the circumstances of him referring
19 you and Mr. Batchelor to PSC?
20 A. I believe when Mr. Batchelor got out of the 12:33
21 military, he stayed in the home of Stanley Duncan. Me
22 and Stanley worked with the telephone company as upper
23 management. When they started laying off, Stanley got
24 laid off before I did. And he got -- he hired on with
25 the PSC and I was still with the phone company, but we 12:34

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1 still communicated. And he had referred me to PSC
2 because eventually I ended up getting laid off. So I
3 just took a severance package and I hired on with PSC.
4 In fact, me and Dwayne kind -- I didn't know Dwayne
5 Batchelor at the time. But I met Dwayne while we were 12:34
6 at PSC.
7 Q. Did you appreciate the fact that Mr. Duncan
8 referred you to PSC?
9 A. Yes, I do. I appreciated the fact that he
10 gave me a referral. So yes, yes. 12:34
11 Q. You were on friendly terms with him when he
12 referred you to PSC, weren't you?
13 A. Was I on friendly terms with Stanley?
14 Q. Yes.
15 A. Yes, I was. 12:35
16 Q. What did he tell you about PSC when he
17 referred you to the company?
18 A. He told me that as far as the career is
19 concerned, that it was good. You know, getting your
20 license. It's a whole different industry that I 12:35
21 hadn't been introduced to. He said that he enjoyed
22 doing the work. He didn't like the politics of PSC.
23 That's exact word that he used. But that it would be
24 a good -- it would be a good place to start to get a
25 career-to-take-care-of-your-family-type scenario. 12:35

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1 Q. Did he explain to you the politics that he
2 didn't like?
3 A. Well, not really into -- he didn't go into
4 detail. But he just told me, like I said, just that
5 part of it, that he wasn't happy with certain things 12:36
6 that were going on, but he was about taking care of
7 his family, too. I understood what that to mean. You
8 have to do what you have to do.
9 Q. He said generally he liked working there?
10 A. He said generally he enjoyed like pumping up 12:36
11 the barges. The actual work that he does, because
12 actually providing the service is wonderful. And when
13 you're doing the work, it's just how it operates.
14 That's different.
15 Q. You're generally working on your own? 12:36
16 A. You're working on your own. You're dealing
17 with a customer. It's just you and the barge.
18 Q. On a monthly basis, how much contact would
19 you even have with Mr. Dela Cruz?
20 A. The only time I really dealt with him is when 12:36
21 we had safety meetings. Or when you had to -- if you
22 ever ran into a problem on a barge, you would have to
23 pretty much contact your supervisor, or whatever. If
24 you couldn't start an engine or you had some type of
25 issue or whatever, he would come out, or he would pop 12:37

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1 up on you every once in a while.
2 Q. In 2006, when you were working for Petroleum
3 Service Corporation, how often would you interact with
4 Mr. Dela Cruz on a monthly basis?
5 A. How often? 12:37
6 Q. Yes.
7 A. On a daily basis --
8 Q. No. On a monthly basis.
9 A. On a monthly basis?
10 Q. I assume you didn't interact daily. 12:37
11 A. No, it wasn't daily. I would say on a
12 monthly basis maybe four or five.
13 Q. Times a month?
14 A. Times a month, maybe.
15 Q. Okay. 12:37
16 A. Maybe.
17 Q. Tell me -- well, what I'm getting at, I mean
18 you were on -- you considered -- you don't think that
19 Mr. Stanley Duncan would have referred you to PSC if
20 he thought Mr. Dela Cruz was a racist, do you? 12:38
21 A. Do I think he would have?
22 Q. Yes.
23 A. Yes.
24 Q. Why?
25 A. I would say for the simple fact that some of 12:38

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1 the decisions that people make, you have to do what
2 you have to do. You have a family to take care of.
3 You have bills and you have to make a living. So now
4 this is just my opinion, that you have to do what you
5 have to do. If it gets to the point where it's 12:38
6 unbearable, then you do what you have to do even if
7 that happened.
8 Going into a situation, I didn't come into it
9 thinking -- having any reservations until I
10 experienced it myself. 12:38
11 Q. That was the first time you experienced a
12 problem with Mr. Dela Cruz --
13 A. No.
14 Q. Let me finish the question. Is the comment
15 that he made when you graduated from TCA about he 12:38
16 wanted you?
17 A. That was the comment that he made upon --
18 after graduation, immediately after graduation.
19 Q. Okay. Had you had any problems with Mr. Dela
20 Cruz before that? 12:39
21 A. No.
22 Q. When Mr. Stanley Duncan told you that he had
23 some problems with the politics at PSC, when he was
24 first recommending you, did he say that racism was one
25 of the politics that he was talking about? 12:39

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1 A. No.
2 Q. Did he ever tell you that he thought -- at
3 any point in time did he tell you he thought Mr. Dela
4 Cruz was racist?
5 A. No. 12:39
6 Q. What about Mr. Batchelor?
7 A. Mr. Batchelor, I believe he had certain
8 experiences that he shared with me where he felt that
9 he was being held -- he wasn't allowed to, I guess,
10 advance like he felt that -- he was never -- I guess 12:39
11 he would make comments as if -- that he felt that
12 there was some discriminatory-type things being done
13 to him.
14 Q. What did he tell you in particular?
15 A. Well, for one, he would talk about the 12:40
16 overtime, which --
17 Q. What else?
18 A. One thing that bothered him was not being
19 considered for when it became an opportunity for maybe
20 getting into management, how it wasn't offered openly 12:40
21 to anybody to at least apply for it, or not being
22 considered coming from his background.
23 Q. Any jobs in particular?
24 A. Any jobs into supervision or upper
25 management. 12:40

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1 Q. Did the supervisors -- I thought you said
2 earlier that the three supervisors of the tankermen
3 stayed the same throughout the period you were
4 employed with PSC.
5 A. Yes. 12:41
6 Q. What supervisory positions came open that you
7 or Mr. Batchelor thought you were eligible for?
8 A. Well, I'm speaking about Mr. Batchelor. But
9 I would say that Mr. Robert -- last name --
10 Q. Franks? 12:41
11 A. Robert Franks, he will became a supervisor
12 for, I believe, it's the docks in Texas City, if I'm
13 not mistaken. He became a dock supervisor, if that's
14 what you want to call it. I guess that's after maybe
15 growth from the company or an opportunity presented 12:41
16 itself for a position to open up for a need for a
17 supervisor.
18 Q. Now, did you say Mr. Franks was moved to
19 supervisor of docks before you were terminated?
20 A. Yeah, he was moved before I was terminated. 12:41
21 Q. Did you express any interest in becoming a
22 supervisor of docks?
23 A. No.
24 Q. Why not?
25 A. Because actually as a tankerman, I was not -- 12:42

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1 I didn't pursue it. For one, I didn't even know about
2 it. So with that being said, you know, had the
3 opportunity presented itself, maybe I would have given
4 it a consideration. I came from management
5 experience. So did Mr. Batchelor. 12:42
6 Q. At Lucent?
7 A. Well, I was a supervisor at Lucent. I was in
8 management at Lucent. Batchelor was a sergeant in the
9 military. So I don't know what his rank was, but he
10 was pretty -- he wasn't like a petty officer or 12:42
11 anything like that. So basically he had like
12 leadership experience coming from the military.
13 Q. I thought you said he was a sergeant.
14 A. Maybe. I'm not sure what his rank was.
15 Q. Do you know of any other -- okay. There were 12:42
16 no jobs or promotional opportunity that came open
17 during your employment that you actually applied for,
18 were there?
19 A. I never heard of any being available to apply
20 for. 12:43
21 Q. Do you know of any -- other than this job
22 that Mr. Franks got, that you might have been
23 interested in?
24 A. No.
25 Q. Were you -- if this supervisor of docks was 12:43

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1 posted, would you have applied for it?
2 A. I believe I would have. I mean, it would be
3 a chance for an opportunity of advancement. Had I
4 known about it, I would have applied for it. Because
5 definitely with my background, I had no problem doing 12:43
6 that. Because like I said, I came from management
7 experience anyway with the phone company.
8 Q. We were talking about what Mr. Batchelor may
9 have told you about problems he had with
10 discrimination at PSC. You mentioned overtime. You 12:43
11 mentioned not being considered for management
12 positions. Was there anything else that he talked
13 about that he thought was discriminatory?
14 A. Well, he felt like he -- he felt like I did
15 on this. You always felt -- Mason would always 12:44
16 mention about -- it's like he would advocate firing
17 somebody all the time. And he was tired of being
18 threatened to be fired by Mason, which I experienced
19 that myself on occasion. When I say occasions, I
20 would say at least twice that it was mentioned. 12:44
21 Whether it was mentioned as a threat or -- it was just
22 always his demeanor. And these were separate
23 experiences that me and Dwayne had discussed at times.
24 This is what he experienced on his own. It had
25 nothing to do with me and vice-versa. 12:45

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1 Q. When you said Mason threatened to fire
2 someone twice, was that you or was that Batchelor?
3 A. No. He's -- as he reprimands you, it's --
4 you get the vibe that -- and the words that he used in
5 reprimanding, that it was never a help-you situation. 12:45
6 You always felt -- I always felt. I can't speak for
7 Dwayne Batchelor. I always felt like he was looking
8 for a reason to fire me coming straight out of
9 graduation.
10 Q. How many times did Mr. Dela Cruz reprimand 12:45
11 you?
12 A. I was reprimanded by him at termination, of
13 course. The first time was coming out of graduation.
14 Shortly out of graduation, I was suspended for three
15 days because my fire extinguisher was expired. 12:45
16 Q. When was that? Do you know?
17 A. I don't know exactly when. That was my first
18 call into his office.
19 Q. Each tankerman has their own fire
20 extinguisher? 12:46
21 A. Each tankerman would have their own fire
22 extinguisher. What happens -- and you find this out
23 through your experience with fire extinguishers. They
24 evaporate at some point. It wasn't that it went off
25 in my car or anything like that and discharged. I 12:46

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1 still had the little seal on the -- you know, when you
2 break the seal, that's the only way you can tell if a
3 fire extinguisher is or not. I still had my seal on,
4 but the gauge had indicated that it was empty. He
5 brought that to my attention. And, actually, he 12:46
6 brought it to my attention out on a barge and asked me
7 to come into the office. When I came into the office,
8 the atmosphere was that my job was in jeopardy, but
9 what he's going to do this time and give me like a
10 three-day suspension. 12:47
11 At this point, even with that conversation,
12 it was a little -- not intimidating, but I felt -- I
13 felt that if it was up to him, he would have fired me
14 at that particular time.
15 Q. Okay. Let me make sure I understand. Each 12:47
16 tankerman is issued a fire extinguisher?
17 A. Yes, that is true.
18 Q. Each tankerman is responsible for making sure
19 it's working properly?
20 A. Yes. 12:47
21 Q. And yours wasn't working?
22 A. Mine was not working properly.
23 Q. Mr. Dela Cruz discovered that when he was
24 with you out on a barge somewhere?
25 A. Yes, he came out to me. He came out on a 12:47

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1 barge and discovered that. But every visit that I had
2 on the barge with Dela Cruz, even when I had problems
3 like to -- like one time I couldn't start an engine.
4 You hated to call Mason because he was going to come
5 out there and look for something else. I'm not saying 12:48
6 that in any particular way. You know when you made
7 that phone call to Mason, that you felt like he wasn't
8 really going to come out there to help you. He was
9 about to come out here and reprimand you.
10 Q. Let me go back to the fire extinguisher for 12:48
11 just a minute, because I'm a little bit confused.
12 A. Okay.
13 Q. It is important to have a working fire
14 extinguisher.
15 A. This is true. 12:48
16 Q. In this particular case do you think that his
17 reprimand was improper when he found that your fire
18 extinguisher was not working properly?
19 A. Yes.
20 Q. Why? 12:48
21 A. Because in talking to other tankermen, a lot
22 of times when your fire extinguisher needs to be
23 charged, other supervisors won't necessarily give you
24 three days off. They just remind you that you need to
25 go get it charged and will tell you where to go get 12:49

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